

H.581 excerpt

\* \* \* Accessory On-farm Businesses \* \* \*

Sec. 16. 10 V.S.A. § 6001(3)(D) is amended to read:

(D) The word “development” does not include:

\* \* \*

(ix) The construction of improvements for an accessory on-farm business located on a tract of land primarily devoted to farming, provided that:

(I) the proposed improvements are for an accessory on-farm business as defined by 24 V.S.A. § 4412(11);

(II) the farming operation is subject to the Required Agricultural Practices; and

(III) the total area of improvements associated with the accessory on-farm business does not exceed one acre.

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Sec. 17. 24 V.S.A. § 4428 is added to read:

§ 4428. ACCESSORY ON-FARM BUSINESSES

(a) Prohibition. No regional plan, municipal plan, or municipal bylaw shall have the effect of prohibiting an accessory on-farm business at the same location as a farm.

(b) Definitions. As used in this section:

(1) “Accessory on-farm business” means activity that ~~is accessory~~:

1           (A) is located on a farm and is connected to the farming operation;

2           and

3           (B) comprises one or both of the following:

4           (i) The storage, preparation, processing, and sale of qualifying  
5           products, provided that more than 50 percent of the total annual sales are from  
6           qualifying products that are principally produced on the farm at which the  
7           business is located.

8           (ii) Educational, recreational, or social events that feature  
9           agricultural practices or qualifying products, or both. Such events may include  
10          tours of the farm, farm stays, tastings and meals featuring qualifying products,  
11          and classes or exhibits in the preparation, processing, or harvesting of  
12          qualifying products. As used in this subdivision (B), “farm stay” means a paid  
13          overnight guest accommodation on a farm for the purpose of participating in  
14          educational, recreational, or social activities on the farm that feature  
15          agricultural practices or qualifying products, or both. A farm stay includes the  
16          option for guests to participate in such activities.

17          (2) “Farm” means a parcel or parcels owned, leased, or managed by a  
18          person, devoted primarily to farming, and subject to the RAP rules. For leased  
19          lands to be part of a farm, the lessee must exercise control over the lands to the  
20          extent they would be considered as part of the lessee’s own farm. Indicators of  
21          such control include whether the lessee makes day-to-day decisions concerning

1 the cultivation or other farming-related use of the leased lands and whether the  
2 lessee manages the land for farming during the lease period.

3 (3) “Farming” has the same meaning as in 10 V.S.A. § 6001, except that  
4 when calculating whether an agricultural product was principally produced on  
5 the farm, water shall not be included in the calculation as an ingredient.

6 (4) “Qualifying product” means a product that is wholly:

7 (A) an agricultural, horticultural, viticultural, or dairy commodity or  
8 maple syrup;

9 (B) livestock or cultured fish or a product thereof;

10 (C) a product of poultry, bees, an orchard, or fiber crops;

11 (D) a commodity otherwise grown or raised on a farm; or

12 (E) a product manufactured on one or more farms from commodities  
13 wholly grown or raised on one or more farms.

14 (5) “RAP rules” means the rules on Required Agricultural Practices  
15 adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.

16 (c) Eligibility. For an accessory on-farm business to be eligible for the  
17 benefit of this section, the business shall comply with each of the following:

18 (1) The business is operated by the farm owner, one or more persons  
19 residing on the farm parcel, or the lessee of a portion of the farm.

20 (2) The farm meets the threshold criteria for the applicability of the RAP  
21 rules as set forth in those rules.

1           (3) Gross sales by the business may exceed those of the farm but shall  
2           not exceed \$200,000.00 annually.

3           (d) Use of structures or land. An accessory on-farm business may take  
4           place inside existing structures, on the land, or inside a new structure that shall  
5           not exceed 4,000 square feet.

6           (e) Review; permit. Activities of an accessory on-farm business that are  
7           not exempt under section 4413 of this title may be subject to site plan review  
8           pursuant to section 4416 of this title. A bylaw may require that such activities  
9           meet the same performance standards otherwise adopted in the bylaw for  
10          similar commercial uses pursuant to subdivision 4414(5) of this title.

11          (f) Less restrictive. A municipality may adopt a bylaw concerning  
12          accessory on-farm businesses that is less restrictive than the requirement of this  
13          section.

14          (g) Notification; training. The Secretary of Agriculture, Food and Markets  
15          shall provide periodic written notification and training sessions to farms  
16          subject to the RAP rules on the existence and requirements of this section and  
17          the potential need for other permits for an accessory on-farm business,  
18          including a potable water and wastewater system permit under 10 V.S.A.  
19          chapter 64.